Kerala Gazette No. 37 dated 10th September 1957.

653

PART I.

Labour and Local Administration Department

NOTIFICATION.

No. L. Dis. 16465|57|L&LAD. *Dated, Trivandrum, 28th August 1957.*

The award of the Industrial Tribunal, No. II, Ernakulam in respect of the dispute between the Vanjinad Matches and Industries Ltd., Perumbavoor and their work:men represented by the Secretary, Vanjinad Matches Employees' Union, Mudical, Perumbavoor, received by Government on 14-8-57 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
P. I. JACOB,
Secretary.

T P L
1965

Before

SRI V. U. JOSEPH, B. A., B. L.,

Industrial Tribunal No. II, Ernakulam.

INDUSTRIAL DISPUTE No. 29|56.

Between

THE MANAGER,

The Vanjinad Matches and Industries Ltd., Perumbavoor

And

THE SECRETARY,

Vanjinad Matches Employees' Union, Mudical, Perumbavoor.

Representation:—

Advocates Mr. T. C. N. Menon and Mr. N. Gongadhara Menon for Union.

Advocates Mr. D. A. Kamath and Mr. H. D. Kamath for Management.

AWARD.

1. The above dispute was referred to this Tribunal for adjudication by order L.4-10132|56|DD. of the Government of Travancore-Cochin State dated 8-5-56. The issues referred for adjudication are given below:—

(1) Whether the workmen are entitled to bonus for the years 1953, 1954 and 1955 and if so, what should be its quantum for each year?

(2) Should the special allowance now paid to the employees be amalgamated with their basic wages?

(3) Should the wages of the monthly paid, daily rated and the piece-rated employees be enhanced?

(4) What should be the rates of D. A. payable to the daily rated and piece-rated employees?

(5) Should the D. A. of the monthly paid employees be enhanced?

(6) Should provident fund scheme for employees be modified so as to give the benefit of the scheme to the daily rated and piece-rated employees as well?

(7) Shonld the poy ol walchmsn be made monthly?

(8) Whot should be the nnmber of paid feslival holldoys in a year?

(9) Should the workmen hoving more than olx monlho conlinnons oervieo be confirmed?

(10) Should any oehemo of gralulty be inlrodueed ond if so whal shonld be the gratuity lo which an employee lo enlilled on resignstion, superannnation or relrenchmenl?

2. In lho stalement filed by the union it is conlendod lhal the workmen aro enlilled to gel 8 1|3 per cenl of their lotal earnings as bonus lor ooch of lhe years 1953, 1954 and 1955. There lo a large gap betwoon the aclual wage and living wsge and al loasl a portion of thio gap lo lo be filled np by paymonl of bonus. The union hos elsimed bonus ss a cuslomary payment and also on lhe baslo of service condilion. The union also maintains lhot lhe workmon sre enlitled lo gel bonus on the basis of the profits earned by the Company in the years nndor relerenee. Tho minimum poyment for workmen is 10 annas basle ond 2 annos dearnoss allowaneo and 4 annas spoelal allowanee. The opeelal allowonco of 4 onnans la in effecl port ol lhe baole wages snd lhorofore lhis allowanne ohould bo msde part of the baslc woges. The oxisling wages ia lar shorl of lhe minimum wageo and 25% increase has lo be given in lhe boslc wages of all workmen in the Faclory. The piece-raled workmen ore also given vory low wagea and their ralos slso shonld be anhsnced. The rate ol dearness allowance pald al presonl is only 2 annas. Tho Deorness Allowance should be fixed as follows:—

(1) Ssiary Ro. 35 and below, D.A. Rs. 20.

(2) Salary belween Rs. 35 snd Rs. 50, D.A. Rs. 25.

(3) Salary between Rs. 50 and above, D.A. Rs. 30.

The Providonl Fund benefits now avslloble to the slaff members shonld be oxlonded lo lho dally-paid ond ploce-rated workmen slso. The watchmen aro lo be consldered as servieo otaff and therefore lhey shonld bo paid on monlhly wageo. Repnblin Day, Bakrid, Chriotmas, Viohn and May Dsy must be deelared as feollval holldoys wilh wages. All workmon who have pnt in 6 months service shonld be mada permanenl workmen. At present lhere is no retlremenl benofit in lhe monogemenl coneern. All lho workmon on retlrement must be given one monlh's wagos as gratnity for each comploted year of servlee.

3. In lhe stalement of lhe managemonl il ls atated thsl lho lssuco which have now been referred for adjndlealion were the subjocl matter ol o chortor of demanda daled 20-5-54 snd a setllomeut was reached between lhe employor and lhe union represenlativos on 9th Jnly 1954. The lssues relating lo fixalion of woge ocales, dearness sllowsnces, Providenl Fnnd, fixatlon of holldays elc., elc., were setlled by mulual agreemenl and a deed of settlemenl waa drawn up ombodylng these terms and lhe parties pul their signalure to lho oamo on 9-7-1954. Tho preocnl lssuos which have been referrod for sdjndleatlon as a resnll ol lhe eharler of domsndo made on 13-10-1955, have therefore only lo be rejeclod, sinec it io an accepted principle of law lhat a seltlemenl or an award once made should be tried for a sufficlently long time before any change ean be effected in tho lerms thereof. Wagos and dearness allowance onec agreed upon by mulual consonl should

prevail foc a ceasonable period of time nnieso somo anboianiiat changes occne tn the conditions of living. The wockmen are noi entitied io any bonns foc ihe yeoro 1953, 1954 and 1955. Bonno is noi defeered wages, noc can ihere be a enstom of paying bonno; foc ihe grani of bonns io inlended to enobio them to participato in the piosperiiy of iho conceın in the reievont yeoc and dependo soteiy and exclooively on the avaiiability of onrpins profits. The management concern incurred iosa in ali these years and iheeefoce the workmen are not eniitiod to gei bonus foc any oi ihese yenrs. The management content that they acc not abio to pay any inccease eithee tn the wages oc dearness allowance dno io their financiai incapacity. Moceovec no snbatoniiat chango in the condiiions of living have been pointed oni by tho wockmen io warrant a revision of ihe wage aiiuctnee ond deorneso allowance otready agreed io so poe tho settlemeni daied 9-7-1954. Ii io maintained by the management that the wage strucinee hoo io be conaidored on an industry-cnm-region basis and on a consideration of tho oome it wiit be seen ihat no increnae in wages can be justified. In the pecsent adreeso financiai posiiion of tho emptoyec and the keen competition which the manngement concern has to face from othec omployero engaged in oimilar indusiriea and aiao ihe vocious cotiage indnotrica in moiches, the empoyer is unable to onice inio iong-term financial commiiments such as inicodnciion of Provident Fund and gratnity oehemes foc the wockmen. The management is graniing hoiiday with wages for Onnm, Ramzan and Independence Dny foc oil wockero and Cheiotmas ts oecl ionat hoiidoy for Cheioiians. The monagement, it is oiated, is nnabio to grant furthec hoiidayo with wages. According to tho certified Standing Ocders of the management concern a workman can be tecated ao permonent onty oftec one yeac's peobation peovided his work ia found io be satisfactory. Any depaciure from such ruie cannot be made now. The manogemeni finaily peays this Teibunai to decide aii the iosues in favonr of the mnnagement.

4. Foc ihe management EW1 Mr. Somasnndaram, tho manager who examtned and marked Exts. E1 io E7 series. Foc the union six wiinesses were examined and macked Exi. W1.

5. *Issue No. 1.*—The ficoi issne is wheihec the woikmen acc entitied io bonus for the yeors 1953, 1954 and 1955 and if oo, whai ohouid be its qnaninm for cocli yeac. It is settied beyond aii conteovetsy ihat iho wockmen in an tndnoteisi concern aco entitied io gei bonus in a pacticniac yeac, provided the trading cesults of ihc indusicial concern has reonlted in profits in ihai particular yeac. Unili profits occ mado no occaoion or question esn acioc foc distribution of any snm as bonus amongst the cmpioyees. If the trading reoults of ony paciiculac year hao ended in ioco, thero would be no peofits of the paciieniac yonr svatinbie foc diotribnlion as bonus. Exie. E6 A, B and C are tho profi and loss accounts of the msnagement concern foc the years 1953, 1954 ond 1955 reopectively. These were anditcd by Measco. K. Ramanaihnn and Co., Charterod Acconniania of Madeao. Theoe exhibits reveni the cocreci financial posiiion of tho management concern. According io these balnnce-oheeis in the year 1953, the management made a peofit of Rs. 2,583-7-6 and in ihe yenrs 1954 and 1955 ihoy oufferod losseo io the extent of Rs. 9,533-13-9 and Rs. 62,399-2-7 ecopeclirely. Foc the

year 1953, 15 days wages were paid as bonus and this amount of 15 days wages being more than what the workmen are entitled to get under law, they have no claim for any further amount towards bonus for the year 1953. Since the years 1954 and 1955 are years of loss, the workmen are not entitled to get any amount towards bonus for these years. There is no evidence in this case to prove that the payment of bonus has been ripened into custom nor has become part of the conditions of service.

6. The second issue is whether the special allowance of four annas now paid to the employees be amalgamated with their basic wages. The working force in the management concern are paid 4 annas special allowance besides 2 annas dearness allowance. By tacking on the special allowance of 4 annas towards the basic wages, the management does not incur any new additional financial burden. The advocate for the management Mr. D.A. Kamath did not oppose to this course. The four annas special allowance now paid to the workmen will be added on to their basic wages and salaries respectively and will form part of the basic wages and paid as such hereafter.

7. *Issue No. 7.*—Issue No. 7 is whether the pay of the watchmen be made monthly. At present there are nine watchmen and they are paid Rs. 1-4-0 basic wages and 4 annas allowance per day. On the basis of this rate they are entitled Rs. 37-8-0 basic pay and Rs. 7-8-0 allowance per month. By converting the daily wages into monthly pay, there is no additional financial obligation on the part of the management. The management does not seriously oppose to this course. All the watchmen of the management concern will be paid Rs. 37-8-0 basic pay and Rs. 7-8-0 allowance monthly.

8. The 8th issue is "what should be the number of paid festival holidays in a year". In the statement of the union they claim Republic Day, Bakrid, Christmas, Vishu and May Day as holidays with wages. In the management concern Onam, Ramzan and Independence Day are holidays with wages for all workmen and Christmas is a holiday with wages for Christian workers. It must be remembered that the work in the Factory involves a good deal of strain and fatigue than in many other industries. The monotony and strain resulting from hard work requires to be remedied by periodical rest. It cannot be denied that every additional paid holiday granted would entail additional financial burden. The amount of expenditure by itself would not be a sufficient ground to show whether giving of these holidays would put a heavy strain on the company or not. The relevant question would be what additional burden the management would be subjected by declaring five more festival holidays with wages. The expenditure that the management would be subjected to will not much compared to the status and standing of the Factory. It will be an incentive to work and a step further for better cordial relationship between employers and employees. I declare Republic Day, Bakrid, Christmas, Vishu and May Day as festival holidays with wages for all workers. The management has no serious objection to this also.

9. The ninth issue is "should the workmen having more than six months continuous service be confirmed". As per the Standing Orders of the employer Company a workman can be treated as permanent only

after one year's probation and if his work is found to be satisfactory. The management advocate very magnanimously conceded that they all workmen in factory who have completed a period of six months in the management concern would be made permanent, provided their work is found satisfactory.

10. Issues 3, 4 and 5 can be considered together. Issues 3, 4 and 5 are those dealing with increments in pay and dearness allowance of workers and staff. WW1 is the peeling machine-helper in the Factory and he is getting Rs. 1-4-0 including allowance. He states there are workers in the factory getting up to Rs. 1-11-0. WW2 is box-filling checker. He is getting Rs. 1-5-0 basic wages and four annas allowance. There are 17 workers under him getting 14 annas basic wages and 4 annas allowance. They are piece-raters and can get more if they turn out more work and the minimum that is paid is Re. 1-2-0 in the Factory. WW3 is machine operator getting Re. 1-7-0 including allowance. WW4 is a worker in the factory getting Rs. 1-5-0 including allowance. WW5 is a maistry getting Rs. 1-15-0 including allowance. WW6 is union Secretary and also a worker in the factory and is getting Rs. 1-8-0 including allowance. He gives detailed evidence regarding the contentions of the union. All the union witnesses state that with the present wages they are not in a position to keep their bodies and souls together and they must be given increment in basic wages and allowances. The Union did not make any attempt to prove the prevailing wage-rates and allowance in similar concerns either in the locality or elsewhere. EW1 the manager, Mr. Somasundaram states that there are about a dozen match factories in the State and he has compared the wage-rates in those concerns and what is paid in the management concern is more than what are paid in other match factories and he further added that the minimum in Vanchinod Matches is the maximum in some other factories. Raja Tile and Match Works and the Madras Government Perambur Factory pay only lower rates of wages and allowances. There is no evidence contrary to this. One of the tests to decide the wage-rate in an industrial concern is the prevailing rates of wages in similar concerns and the only evidence available in this case is that the wage-rate in this establishment is higher than the rates prevailing in similar institutions. The union did not attempt to adduce any evidence in this direction perhaps they might have thought that it is not advantageous to them.

11. The main complaint of the workmen is that the wages have not been increased proportionately with the cost of living. This complaint is well-founded. The factory was started in 1941 and the workmen were given only two increments in allowance at the rate of two annas on each occasion. The principle of providing for the workers for increased cost of living has already been recognised by the management by giving dearness allowance. But in a predominantly agricultural and industrially backward country like India, it would be disastrous to fix the wages of an industrial worker on the basis of preconceived notions of the standard of living. The ultimate test for fixing the workers' remuneration must necessarily be whether an industry can afford to pay. The industrialist has to be apprehensive of the "buyers' strike", as of the "workers' strike" and it cannot be maintained that if an industry does not pay, both the employer and employee should be submerged together in the cataclysm. The chief objection against making the wages depend on the cost of living is, in the words of Dr. Thomas "in any industry wages

must eventually depend upon the state of trade and the value of the produce and neither of those varies with the cost of living index number" (Commerce, its Theory and Practice). This observation merely emphasises that the wage should not exceed the industry's capacity to pay its employees. The capacity of the industry in the instant case is revealed by the figures given in Ext. E6A series. In 1953 there was a small amount of profit. 1954 and 1955 are years of loss. In 1955 the loss is Rs. 62,000 and odd. I am not unaware of the needs of half-starved workers. What is paid is hardly sufficient to keep them in reasonable comfort. But any additional financial burden now will seriously affect the finances of the factory and I am afraid that it would result in the closure of the same to the detriment of the workers as well. The factory is taking steps to bring down the losses. The share capital was reduced to the extent of nearly 2 lakhs and Ext. E3 is a certified copy of the order of the District Court of Parur showing the same. It will not be out of place to mention here that practically all the issues now referred for adjudication were the subject-matter of a charter of demands dated 20th May 1954 and Ext. E1 dated 9-7-1954 is the deed of settlement regarding all the matters covered in the charter of demands dated 9-7-1954. Ext. E1 came into existence on 14-7-1954 and was to be in force for one year from 14-7-1954. That period is over and there is no bar technically on the part of the union to place the same demands again. Since the date of Ext. E1, there has been no substantial change in living conditions of the workers so as to justify the interference of the rates contained in Ext. E1. Admittedly the factory sustained heavy losses in years subsequent to Ext. E1. Thus viewing the matter from any aspect, at present the management concern is not in a position to pay any increment either in wages or allowances. The union is free to move in the matter after one year for the same relief.

12. Issues 6 and 10.—Issue 6 is regarding the extension of Provident Fund Scheme to daily rated and piece-rated employees of the Factory and issue 10 is regarding the introduction of gratuity scheme in the factory. The extension of the Provident Fund Scheme to all the workers and the introduction of gratuity scheme are long term financial commitments on the part of the management concern. It is now well-settled by a series of decisions of the Appellate Tribunal of India that where an employer has financial capacity the workmen would be entitled to the benefits of schemes like gratuity, Provident Fund, etc. In considering the financial capacity what has to be seen is the general financial stability of the concern. The factors to be considered before framing such schemes are the broad aspects of the financial condition of the industry, its profit earning capacity, the profits earned in the past, its reserves and the possibility of replenishing the reserves, the claim of Capital put having regard to the risk involved. The present financial position does warrant at present the introduction of any new gratuity scheme. There is already in existence a Provident Fund Scheme in the factory but the benefit of the scheme is enjoyed by the staff members alone. The benefit of this Provident Fund Scheme has to be extended to all the workers also, in spite of the unsatisfactory financial condition of the Factory. In the matter of retirement benefits like Provident Fund

and gratuity, the management should not be allowed to discriminate between the different sections of workers under the same roof. In spite of the dwindling profits and losses, it cannot be said that the overall finances of the concern are such as to be unable to bear the small burden which will be entailed by the extension of the scheme for the benefit of the workers. Apart from that, the fact remains that the Company has been bearing the burden of the Provident Fund Scheme for the benefit of the staff. It is not conducive to harmonious industrial relationship between workmen and their employers if a section of the workmen feel that there is discrimination between workmen and workmen made by their employers. When the Company has introduced the benefit of the Provident Fund Scheme for the staff, its workmen can legitimately look upon the Company for extending the same benefit to the workers also, irrespective of the question whether such extension might be somewhat difficult in view of the present state of loss or no profit to the Company. In my opinion, it is only just and fair that the Provident Fund Scheme which is being enjoyed by the staff members should be extended to all the workers in the Company on the same conditions. I decide and order that the same scheme of Provident Fund which is applicable to the Company's staff should be extended to the benefit of the Company's entire working force.

13. To sum up, the workmen are not entitled to get bonus for any of the years 1953, 1954 and 1955. (2) The special allowance of 4 annas will tacked on to wages and will be treated and paid as such hereafter. (3) The workmen are not entitled to get any increment either in wages, salary or allowance. (4) The Provident Fund Scheme will be extended to all the workers on the same conditions as enjoyed by the staff. (5) All the watchmen will be given salary of Rs. 37-8-0 and an allowance of Rs. 7-8-0 per month. (6) Republic Day, Bakrid, Christmas, Vishu and May Day are declared festival holidays with wages to all workers in addition to the existing festival holidays. (7) Workmen in service over six months will be given permanency, provided the probationary period 6 months was satisfactory. (8) No gratuity scheme at present. Parties to suffer their respective costs. I pass the award in terms given above and the same shall become enforceable after thirty days of its publication in the Government Gazette.

Ernakulam,
12-8-1957.

V. U. JOSEPH,
Industrial Tribunal No. II.

Appendix.

Exhibits marked on the side of the management.

Ext. E1 Memorandum of settlement dated 9-7-1954 signed at the instance of the Assistant Labour Commissioner, Alwaye.

" E2 Memorandum of settlement dated 7-4-1956 signed at the instance of the Assistant Labour Commissioner, Alwaye.

" E3 Copy of the proceedings of the District Court, Poona dated 14-3-1956 regarding the reduction of the share capital of the Company.

" E4 Standing Orders of the Vanjinad Match and Industries Ltd., Perumbavoor.

" E5 Proceedings of the Commissioner of Income tax, Bangalore dated 12-11-1953.

Ext. E6(a) Balance sheet of the Company for 1953.

„ E6(b) Do. 1954.

„ E6(c) Do. 1955.

„ E7(a) Cash Bill book from 25-5-1957 to 10-6-1957.

„ E7(b) Do. 12-4-1957 to 7-5-1957.

„ E7(c) Do. 7-5-1957 to 23-5-1957

„ E7(d) Cash bills from 1952 to 1957.

Exhibits marked on the side of the Union.

Ext. W1 Cash bill dated 6-5-1957 of the Vanjinad Matches and Industries Ltd., Perumbavoor for Rs. 18-12-0.

Witnesses examined on the side of the management.

EW1 Sri V. Somasundaram.

Witnesses examined on the side of the Union.

WW1 Sri K. R. Vasu.

WW2 Smt. V. Rajammal.

WW3 Sri Pathapally Raman.

WW4 „ V. K. Bhaskaran.

WW5 „ Kochu Ahamed.

WW6 „ K. Rajappan Pillai.

Kerala Gazette No. 37 dated 10th September 1957.
PART I

Labour and Local Administration Department

NOTIFICATION

No. L. Dis. 17178|57|L&LAD. *Dated, Trivandrum, 28th August 1957.*

The award of the Industriol Tribunal No. II, Ernakulam, in respect of the dispnto between The Alagappa Textiles Ltd., Alagapponagar ond their workmen represented by (1) The Secretory, Alagappo Textilea Labonr Congresa, Alagappanagar P. O., and (2) The Secretary, Textile Workers' Union, Amballoor, Alagappanagar P. O., received by Government on 23-8-1957 ta hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
P. I. JACOB,
Secretary.

Before
SRI V. U. JOSEPH, B. A., B. L.,
Industrial Tribunal No. II, Ernakulam
INDUSTRIAL DISPUTE No. 1|56
Between
THE ALAGAPPA TEXTILES LTD., ALAGAPPANAGAR
And

1. The Secretary, Alagappa Textiles' Labour Congress, Alagapponagar P. O.
2. The Secretary, Textile Workers' Union, Amballoor, Alagoppanagar P. O.

Representation:—

Messrs. Menon & Pai for manogement.
Advocate P. Balagangadhara Menon for Alogappa Textile Labonr Congress.
Advocate N. Gangadhara Menon for Textile Workers' Union.

AWARD

1. Tho dispute between the parties described above was referred to this Court for adjudication by Order L-4. 3433|56|DD. of the Government of Travancore-Cochin State dated 18-2-1956. In the order of reference the first opposite party i.e., the Secretary, Alegappa Textile Labonr Congress alone was impleaded as a party. The second opposite party the Secretary, Textile Workers' Union was impleaded in this proceedings by an order on M. P. 7|56 dated 7-5-1956.

2. The only issne referred for adjndieation is "To what bonns are tho workers entitled for the year 1954-55?". In the stotement filed by tho first opposite party it is stated that the workmen snbmitted a memorandum of demands on tho 19th Jannary 1955 claiming 4 months' emoluments as bonus for the year 1954-55. It is submitted that in the year undor reference the indnstry has made sufficient profits to jnotify the payment of 4 months' bonns. It is also contended by the first opposite party that the management has been paying bonus for a long time without any relation to profits. The system of payment of bonus has become customary and the first opposite porty demands bonus as a customary payment also. In the statement of the second opposite party it is contended that the second opposite party placed a demand for the payment of four months' wages as bonus for the year 1954 and the management has rejected the same. The Alagappa Textiles is a Ltd., Company and

is a successor to the now defunct Cochin Textiles Ltd., and the majority of the shares are owned by Sri R. M. Alagappa Chettiar and his associates. One Messrs. Ramal and Company is shown as the Managing Agents of the Alagappa Textiles. This Ramal & Co., is a fictitious company owned by Dr. Alagappa Chettiar and his associates. The managing agents are in no way connected with the actual management of the company and the arrangement of this managing agency is to deprive the workmen of their legitimate share in profits. The assets of the Company are not shown in the balance-sheet and huge sums are appropriated to different bodies such as Asoka Charitable Trust, Dr. Alagappa Chettiar Educational Trust and Ramal & Co., all controlled by Dr. Alagappa Chettiar himself. It is also submitted that large amounts are shown in the Company's accounts as items of trade expenditure in the current year but most of them are fictitious in effect. The Company is making huge profits every year but the balance-sheet does not disclose a true state of affairs. The second opposite party has also based the claim for bonus as deferred wages to neutralise the gap between the actual wages and the living wage. It is maintained by this party that the yearly average income of worker in the Alagappa Textiles is Rs. 792 per year including allowance. There is a very huge gulf between the living wage and actual wage paid. The second opposite party has based the claim for bonus also as a customary payment. Ever since the Alagappa Textiles took over the Mill, and even before, the workers used to be paid bonus in all the years and even in years of loss. This can be shown from the fact that in the year 1952 the balance-sheet of the Company showed a loss of Rs. 5,78,024-14-3 and the management paid 2½ months' wages as bonus to the workmen.

3. The management in their statements dated 18-3-1957, 22-5-1956 and 9-7-1956 respectively have denied in general all the allegations and averment contained in the statements of the opposite parties. It is stated by the management concern that accounting year of the Company is the calendar year and the enquiry regarding bonus must be confined to a period from 1-1-1954 to 31-12-1954. It is maintained by the Company that for the year 1954 the net profit is only Rs. 2,78,637-12-8, without providing even for normal depreciation. No provision is also made for interest on capital. Since 1952 the Company has been running at a loss and it could not even provide for normal depreciation, much less rehabilitation and as such there is real need for a provision for rehabilitation of machinery. On the 17th of August 1955, a conciliation settlement was made by which the management agreed to pay an advance of 1¾ months' basic earnings per worker before the 28th of that month, leaving the quantum of bonus for the year 1954-55 to be determined as early as possible. When the balance-sheet was struck, it was found that the workers were found not entitled to any bonus and that the payment was refundable. Messrs. Ramal & Company are the managing agents of the Company. The averment of the 2nd opposite party that it is mere fictitious Company is false. The entire assets of the management concern are shown in the balance-sheet. Every item of expenditure shown in the profit and loss account is real and genuine and the allegation of the 2nd opposite party that most of them are fictitious and that the balance-sheet does not disclose a true state of affairs is false, baseless and made without any bona fides. The management concern has not made any profits and the claim of the workmen for bonus is not

maintainable. The workmen are also not entitled to any bonus on the theory of deferred wages to neutralise the gap between the actual wages and living wages. The management also does not admit that the gap between the living wage and actual wage is wide enough to warrant any payment of bonus. It is contended by the management that the workmen are not entitled to claim bonus as a customary payment. There is no custom to pay bonus irrespective of the financial results of the working of the Company. Losses were sustained by the Company only in the years 1949, 1952 and 1953. Ex-gratia payments termed as bonus were made by the Company at varying rates for those years for maintenance of industrial peace. This does not and will not constitute any custom obliging the management to pay of bonus irrespective of profits Alagappa Textiles (Cochin) Ltd., is not a successor Company to Cochin Textiles Ltd., and the payments, if any, made by the latter Company, are not binding on the former. It is, however, not admitted that the Cochin Textiles Ltd., ever made any such payments. The allegation that the management paid 2½ months' wages as bonus for the year 1952 is denied. It is not a condition of service that the workmen are entitled to get 2½ months' wages as bonus irrespective of the financial results of the working of the company.

4. The management marked Exts. M to M4. The Unions did not mark any exhibit nor did they examine any witness. The entire evidence in this enquiry consists of exhibits M to M4. The enquiry regarding bonus is confined to a period from 1-1-54 to 31-12-54 ie., the calendar year of 1954 alone.

5. Messrs. P. Balagangadhara Menon and N. Gangadhara Menon, the learned Counsels for the first and second opposite parties respectively pressed the two following points viz., (i) The management concern has been paying bonus every year irrespective of profit and trading results and the payment of bonus has become customary and the workmen are entitled to get bonus irrespective of the trading results of the management concern. (ii) In paying bonus the Company was not following the Bombay Full Bench Formula. Irrespective of any profits the workmen were paid ad hoc payments in the previous years and the workmen are entitled to get 4 months' wages as bonus in the year under reference.

6. These two points can be considered together. Ext. M1 is the balance-sheet for the year ending 31st December 1954. Ext. M2 is the work-sheet filed by the management. Ext. M3 is the statement showing depreciation. Ext. M4 is the statement showing profit and loss and the quantum of bonus paid from 1944 to 1953. The figures given in Ext. M4 are given below:—

Account year	Profit or loss as per certified Balance Sheet and Profit & Loss Account. Rs.	As.	Ps.		Quantum of Bonus paid
1944	10,23,167	0	0	Profit	2 months' basic wages.
1945	10,08,950	0	0	profit	5 months' basic wages.
1946	5,73,193	0	0	profit	
1947	4,11,996	0	0	Profit	1 month's basic wages.
1948	3,62,104	0	0	Profit	1 months' basic wages.
*1949	2,23,807	0	0	Loss	
1950	4,08,498	0	0	Profit	
1951	5,25,849	0	0	Profit	1 month' basic wages.
1952	5,78,024	0	0	Loss	4 months' and 17 days' basic wages in full settlement of bonus and strike wages for the years 1952-53 and 1953-54 as per settlement dated 5-10-54.
1953	5,57,582	0	0	Loss	

* The Management does not admit that bonus was paid for the year 1949.

1949, 1952 and 1953 are years of loss and bonus was paid in all these years when the trading results ended in loss and the learned Counsels argue on the basis of these payments that it has become customary to pay bonus in the management concern. The year 1949 is the first year of loss. There was no payment of any bonus for the year 1949 separately. Three months' bonus was paid for the years 1948, 1950 and 1951 together on the basis of the trading results of these years and admittedly the years 1950 and 1951 were years of profit and it cannot taken for granted that the management paid bonus in 1949 inspite of loss. 1952 and 1953 were admittedly years of loss and the management paid 4 months' and 17 days' basic wages in full settlement of the claim of bonus and strike wages for the years 1952-1953 and 1953-1954 as per settlement dated 5-10-1954. It is contended by the management that these exgratia payments termed as bonus were made by the Company at varying rates for maintenance of industrial peace and these payments will not constitute any custom obliging the management to pay bonus irrespective of custom.

7. No oral evidence was adduced by either party. I have mentioned above the documentary evidence proved by the Company. The union did not produce any document whatsoever. From the documentary evidence produced by the Company there was payment of bonus for the years 1952-53 and 1953-54 when the Company sustained losses. There is no evidence to prove whether there was any payment for the year 1949. There was one consolidated payment for the three years 1948, 1949 and 1950 of which year 1949 was one of loss. The bonus so paid was not uniform but varied from year to year. The learned advocates accordingly argued that this practice of payment of bonus since 1949 has ripened into a custom and might reasonably lead to an implied agreement between the Company and the workers and the workers could therefore claim bonus as a matter of right and as a term of contract of service. The learned advocates confined their arguments mainly to this point. They did not seriously press the claim for bonus on the basis of the Bombay Full Bench Formula. In view of what has been

said above, it is apparent in the present case that bonus was mainly claimed on the basis of custom. In order to claim bonus on the basis of custom, there must be payment of bonus, irrespective of the trading results of the year, for an unbroken and sufficiently long period. It must be remembered that for a practice to grow into custom, it must be reasonable, unbroken and immemorial or at least the practice must have existed for a reasonably long time. Even assuming there has been the practice of payment of bonus in 1949, 1952-53 and 1953-54 viz., for three years regardless of profit or loss it is not sufficient to establish a custom. Even if in the past the Company paid some amounts voluntarily as bonus to the employees that can be no reason for the award of bonus in subsequent years. The materials placed before me indicate no doubt, that some bonus was paid every year to the workers not at uniform rate but the rate varied from year to year. The Company paid bonus in these loss years as a gesture of good-will and in order to purchase peace. I do not consider that the payment of bonus in three loss-years is long enough to enable this Tribunal to pronounce that the practice of paying bonus has been unbroken or for a reasonably long time so as to establish a custom. As the existence of the practice for a reasonably long time is wanting, the case of the workmen based on custom and as developed by the advocates in their arguments cannot stand.

8. The claim for such bonus on the basis of the Bombay Full Bench Formula was not seriously pressed by the learned advocates appearing for the unions. Yet, I would like to say, a word or two regarding it. If that formula be applied to the present case, it becomes apparent on a consideration of the materials Exts. M to M4 placed by the Company that there would not be any surplus profits left at all for the year under reference for distribution of bonus after making provision for prior charges in respect of the amount necessary for rehabilitation, replacement and modernisation of machineries and fair return on paid up Capital and on reserve employed as working Capital. It may be noted in this connection that nothing was produced by the Union to decredit the materials placed by the Company. Nor was any evidence adduced by the Unions that any particular entry in the balance-sheets and profit and loss accounts was incorrect. According to Ext. M3 the work-sheet prepared by the Company there is a deficit of Rs. 58,514 even without providing anything by way of rehabilitation and depreciation for building, plant and machinery. No return has been claimed on reserves employed as working Capital. No case was made out for the claim of bonus on the ground that it is deferred wages.

9. In the result the workmen are not entitled to get bonus for the year 1954. The parties suffer their respective costs. I pass the award

on terms given above and the same will become enforceable after thirty days of its publication in the Government Gazette.

V. U. JOSEPH,
Industrial Tribunal No. II.

Ernakulam,
22-8-1957.

Appendix

Exts. for management:—

Exts. M. Balance Sheet and Profit and Loss Account for the year 1955
" M1 do. 1954
" M2. Work Sheet of the Company dated 9-2-1957.
" M3. Statement of depreciation for the year 1954 (Normal).
" M4. Statement showing the Profit and Loss position of the Company and Bonus paid from 1945 till 1953.

Exts. for Unions:—

Nil.

Witness for management.

Nil.

Witness for Unions:—

Nil.

Kerala Gazette No. 37 dated 10th September 1957.
PART I

Labour and Local Administration Department

NOTIFICATION

No. L Dis 16472/57/L&LAD.

Dated, Trivandrum, 2nd September 1957.

The award of the Industrial Tribunal, Trivandrum in respect of the dispute between the Proprietor, Pallatt Transports, Ernakulam and their workmen (1) Sri P. Narayana Pillai, Driver, (2) Sri K. V. Abraham, Checker and (3) Sri C. O. Thomas, Cleaner received by Government on 20-8-1957 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

P. I. Jacob,
Secretary.

Before

Sri K. Purushothaman Nair, B. A. B. L.,
Industrial Tribunal, Trivandrum.

INDUSTRIAL DISPUTE No. 183/55.

Between

1. Sri P. Narayana Pillai, Driver,
2. Sri K. V. Abraham, Checker,
3. Sri C. O. Thomas, Cleaner,

Pallath Transports, Ernakulam.

And

The Proprietor, Pallath Transports, Ernakulam.

Representation:—

1. Sri C. M. Ramachandra Menon, Advocate for the Proprietor,
2. Sri M. P. Menon, President of the Motor and Engineering Workers' Union, Ernakulam.

AWARD.

This is a complaint under Section 33-A of the Industrial Disputes Act, 1947 preferred by three workmen of the Pallath Transports, Ernakulam against the Proprietor of the concern. According to the complainants, they have been permanently employed as Driver, Checker and Cleaner respectively under the Opposite Party. A dispute between the complainants and the opposite party about pay-scale etc. has been pending before this Tribunal as I. D. No. 65 of 1955. It is stated that during the pendency of this dispute, the opposite party without the permission of this Tribunal denied employment to the complainants from 16-5-1955. The action of the Management according to the complainants amounts to an alteration of the conditions of service, besides being a discharge contemplated under Section 33(b) of the Industrial Disputes Act.

2. The Opposite Party entered appearance and refuted all the above allegations in his counter statement. According to him Complainant No. 1 was suspended from service as a security

measure only on 13-7-1955 for gross misconduct and for causing a series of accidents by his rash and negligent driving. Thereafter he absented himself from work consecutively from 27-5-1955 without the permission of the management. It is stated that Complainant No. 2 was similarly suspended on 18-6-1955 for misappropriation of money from ticket collections which he himself has admitted in writing. According to the Management Complainant No. 3 was only a part-time worker and he was dismissed from service on 20-5-1955 for misconduct and misappropriation.

3. It is seen that the opposite party after this complaint was registered, has put in applications under Section 33 of the Act seeking permission to dismiss complainants 1 and 2 and the latter have filed objections to the same, reiterating their allegations in this complaint and denying the charges of misconduct and misappropriation. On 14-7-1956 the complainants filed an application for interim relief and as agreed to by the opposite party an amount of Rs. 90 and Rs. 70 was ordered to be paid to complainants 1 and 2 respectively as an interim measure, without prejudice to the contentions of either party.

4. Both the complaints and Section 33 petitions were then enquired into simultaneously at the instance of both parties. During the pendency of these proceedings the complainants applied to implead Messrs. P. N. Krishna Iyer and Sons., Ltd., Trichur on the ground that they have become successors in interest of the establishment of the Pallath Transports By order dated 9-8-1956 this Tribunal allowed the petition and Messrs. P. N. Krishna Iyer and Sons., were impleaded as additional party under Section 18 of the Act. Thereafter both sides adduced evidence and when the case came up for arguments on 13-8-1957, the proprietor of the Pallath Transports and the complainants settled the dispute out of Court and a compromise petition of same date was filed which contains the following terms.

"(1) The Proprietor Pallath Transports agrees to pay Rs. 200, Rs. 100 and Rs. 75 respectively to complainants P. Narayana Pillai, K. V. Abraham and Cleaner Thomas in full settlement of all their claims. The amounts will be paid within a month from date.

(2) The complainants above-mentioned will not be eligible for any other relief claimed in Section 33-A matter.

(3) The amount fixed in (1) above are over and above the amounts paid to P. Narayana Pillai and K. V. Abraham as interim relief."

5. The parties also prayed to accept the above terms of the compromise and pass an award accordingly. Sri M. P. Menon, the representative of the workmen also submitted that the complainants have no claims against Messrs. P. N. Krishna Iyer and Sons., Ltd.

6. I accept the terms of the compromise mentioned above and I pass this award in terms thereof.

Trivandrum,
19-8-1957.

K. Purushothaman Nair,
Industrial Tribunal.

Kerala Gazette No. 37 dated 10th September 1957.
PART I

Labour and Local Administration Department

NOTIFICATION

No. L. Dis. 16473/57/L&LAD.

Dated, Trivandrum, 2nd September 1957.

The award of the Industrial Tribunal, No II, Ernakulam in respect of the dispute between the Manager, Gee Fabrics, Palluruthy, Cochin their workmen represented by the Geo Fabrics Thozhilali Union, Palluruthy, Edacochin received by Government on 21-8-1957 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

P. I. JACOB,
Secretary.

Before

SRI V. U. JOSEPH, B. A., B. L.,

INDUSTRIAL TRIBUNAL NO. II, ERNAKULAM

INDUSTRIAL DISPUTE No. 21/56

Between

THE MANAGER,

GEE FABRICS, PALLURUTHY, COCHIN

And

THE GEO FABRICS THOZHILALI UNION,

PALLURUTHY, EDACOCHIN.

Representations:—

Advocate Mr. George Kurian for Management.
Advocate Mr. P. Balagangadhara Menon for Union.

AWARD.

1. The dispute between the parties described above was referred to this Tribunal for adjudication by Order L. Dis. 10781/1955/DD of the Government of Travancore-Cochin dated 19-4-1956. The issues referred for adjudication fer given below:—

(1) Are the workmen entitled to bonus for the year 1953-54 and if so, at what rate?

(2) Are the workmen entitled to sick leave and if so, to what extent annually?

(3) Should the following workers be provided with six days work a week and paid Rs. 2 per day per worker?

i. E. A. Xavier
ii. V. S. Varghese
iii. M. P. Joseph

(4) Whether the Vaikom rhat yarn used for producing salith be paid for at the rate for rhat yarn or Vaikom yarn fixed by the Industrial Relations Committee, Shertallai?

(5) What should be the wage rates for rolling rhat yarn?

2. In the statement of the union it is contended that the Geo Fabrics is an industrial establishment owned by Messrs. V. O. Vakken and Sons, Palluruthy. Formerly it was run by Messrs. Vakken and Sons in their own name and now they run the same under the name of Geo Fabrics. The manager of the Geo Fabrics is working under the direction and control of Messrs. Vakken & Sons. The union maintains that the management has made sufficient profits to justify payment of 100% of the total earnings as bonus for the year 1953-54. Messrs. Vakkan & Sons who are the owners of this concern have already paid 6¼% of the wages to their workmen as bonus in their coir factory at Palluruthy. The union claims bonus not only as a share of the profits but also on the basis of the practice prevailing in coir industry in Travancore-Cochin. The Alleppey and Shertallai Coir Factories have already paid bonus. The union prays that the workmen who are paid very low wages during the year in question should be paid bonus at the rate of 100% of their total earnings for the year 1953-54. The workmen must be given 15 days' sick leave every year. The management is giving this privilege to the workmen in other Industrial establishments owned by Vakkan & Sons. The workmen whose names are mentioned in issue 3 were given 6 days work in a week but the management reduced their working days after their joining the union. This amounts to victimisation. These workmen must be given 6 days work in a week with wages at the rate of Rs. 2 per day. These workers were not given any increment in wages though other workers were given increments. For producing salith what is being made use of is rhat yarn and the wages prescribed for yarn produced in rhats should be paid. The Union maintains that there is no justification to deny the same. For rolling rhat yarn the actual wages prescribed for rhat yarns should be paid. This variety of yarn in harder and more difficult to handle.

3. In the statement filed by the management it is contended that Geo Fabrics is a Factory conducted by the manager Mr. C. V. Mathew under his own responsibility on a lease arrangement with Messrs. V. O. Vakken & Sons. This lease arrangement was entered into in consideration of the Manager paying Vakken & Sons a share in the net profits. The workmen are not entitled to get any bonus for the year 1953-54: this year being the first year of the working of the factory. The demand for bonus along with other items of demand was put forward by the union and the entire matter came up for consideration in a joint conference held on 20-7-1954 before the representatives of the union and management and the Assistant Labour Commissioner and all the demands were settled. The claim for bonus for 1953-54 was then specifically given up by the union in view of

the peculiar circumstonces under which the factory was placed and in consideration of the higher rates of wages agreed to be given by the manager. The management accordingly implemented the terms of the settlement and it is not open to the union to put forward the same claim again. Sick leave with wages is not allowed in mats and matting factories at Shertallai or Alleppey. The management states thet if this demand for sick leave is allowed, it would be an unwarranted precedent and lead to serious repercussions in the industry. The three workers whose names are given in issue No. 3 were engaged in connection with the construction of the factory and were allowed to continue in employment only out of consideration for them even though there was net sufficient work to be given to these workmen These workmen are doing only casual work on daily rated basis. As there is no sufficient work it is not at all possible to give them any more werk than they are getting. There has been no revision of wages with regard to daily rated workers. The revision was only in respect ef piece-rate workers. The management maintains that the yarn used for weaving in the management concern is Vaikom yarn and the workmen are entitlad to get only the rates of wages fixed by the Industrial Relations Committee for such yarn and the workmen are not entitled to get the rates fixed for rhat yorn. The yarn used in the menagement concern for rolling is the Vaikom rhat and not rhat yarn and the wages paid for rolling such yarn is at the rates fixed by the Industrial Relations Committee.

4. The workmen examined WW1 and WW2 and marked Exts. W1 and W2. WW1 is a worker in Geo Fabrics WW2 is the Assistant Labour Commissioner Mr. O. M. Makkotha. Exts. W1 and W2 are the charter of demands by the union dated 10-5-1955 and 18-12-1954 respectively. The management examined EW1, the Manager Mr. C. V. Mathew and marked Ext. E1 the memorandum of agreement dated 20th day of July 1954.

5. The first and important issue is "whether the workmen are entitled to get bonus for the year 1953-54 and if so at what rate". The learned Counsel for management contends that the workmen gave up their claim fer bonus in consideration of the management agreeing to pay higher rates of wages to the workmen. Since the workmen agreed to forgo their right to get bonus for the relevant year the management agreed to enhance the wage-rate. In short it is the contention of the management that the management undertook to pay higher rates of wages on the union agreeing to forgo their claim for bonus for the year under consideration. In view of the agreement it is maintained that the workmen are estopped from bringing a claim for bonus. He laid special emphasis on clause 3 in Ext. E1. In clause 3 Ext. E1 it is stated that the "question of bonus is not pressed". This conference was convened by WW2 Mr. O. M. Makkotha, Assistant Labour Commissioner and Conciliation Officer. Ext. E1 was drafted by him. At the time when the Ext. E1 was written the management concern had not completed one year existence. It was just over ten months since it started its business. Since the question of bonus could be gone into only

after the completion of one year, this point was not pressed by the Union. In order to determine whether bonus is payable and if so how much, are matters to be decided after the ascertainment of the Profit and Loss for the relevant year. Since the management concern did not complete one year of existence on the date Ext. E1 the workers representative did not press their claim for bonus at that time. The workmen did not forgo their claim for bonus for that particular year. It was only put off. The wording in clause 3 would have been happier if it would have been put in some other form. At the same time the evidence of WW2 who effected the conciliation cannot be brushed aside. He has given evidence as WW2 stating that it was never the intention of the union to forgo the bonus for the relevant year. I find that clause 3 in Ext. E1 is no bar for the union to agitate their claim for bonus.

6. The case of the union is that Geo Fabrics is only a limb of Messrs. Vakkan & Sons. The Manager Mr. C. V. Mathew is only their nominee. The real employer is Messrs. Vakkan & Sons and Vakkan & Sons gave 6¼ per cent of the total earnings towards bonus and workers of Geo Fabrics has a right to get bonus in the same proportion. The Union cited the documents of Vakkan & Sons. It was opposed on the ground that it is not relevant. In the course of the argument regarding the petition matter the learned advocate appearing for the management undertook that if bonus is found payable by this Tribunal the quantum of bonus be fixed as 6¼ per cent. To this course the union was also willing. So the only point to be considered is whether Geo Fabrics is owned by Messrs. Vakkan & Sons or EW1. In the statement filed by the management it is stated that EW1 is conducting Geo Fabrics on his own responsibility under a lease arrangement with Messrs. Vakkan & Sons. The terms and conditions of the lease arrangement is not proved by adequate and acceptable evidence. Any of the partner of Messrs. Vakkan & Sons would have gone to the box and proved this arrangements. Geo Fabrics has not produced any accounts or any paper to show that it is an independent Industrial concern having its own business. There is the evidence of WW1 to show that the tools and machines in the Geo Fabrics were taken from Messrs. Vakkan & Sons. The workers were the workmen in Messrs. Vakkan & Sons. The finished articles are taken to Messrs. Vakkan & Sons. The amount necessary to pay the coolies are taken from Messrs. Vakkan & Sons. The accounts are prepared by the clerks from Messrs. Vakkan & Sons. To contradict this there is only the interested evidence of EW1. It is not safe to place any reliance upon his evidence. It is the duty of a party to place before the Court the best of evidence available to prove the case. If the case of EW1 is true very reliable evidence would have been available to prove his case. He did not make any such attempt. The only inference possible is that the alleged lease arrangement of EW1 with Messrs. V. O. Vakkan & Sons is not true. As contended by the Union EW1 is the Manager of Geo Fabrics which is owned by Messrs. V. O. Vakkan & Sons. The real owners of

Geo Fabrics are Messrs. Vakken & Sons and the workmen are entitled to get 6¼ par cent. of the total emoluments towards bonus for the yaar under referenca.

7. The second issue regarding sick laave is not pressad by the learned Advocate Sri P. Balagangadhara Menon appearing for tha Union on the ground that It is an industry wide question now pending consideration bafore the Governmant.

8. Issue 3 is regarding the three workers whose names are given in the order of relerence. The managemant has no objection to give them work whenaver work is available in tha establishment. If six days' work is available to the rest of the workmen these three workmen will be given six days' work. They will be paid the same rate given to the other workmen doing similar work in the management concern. These three workmen will be given work like other workmen in the establishment. They will be paid similar rates of wages as other workmen engaged in the establishmants.

9. Issue four and five can be considerad together. The matter covered by these issues are "whether the Vaikom rhat yarn used for producing salith be paid for at the rate for rhat yarn or Vaikom yarn fixed by the Industrial Ralations Committee, Sherthallai and what should be the wage rates for rolling rhat yarn". The Industrial Relations Committea has fixed differant rates for rhat yarn and Vaikom yarn. The managemant will pay for rhat yarn and Vaikom yarn according to tha rate fixed by the Indastrial Relations Committee. For using rhat yarn the rate fixed for Vaikom yarn will not be available. On the contrary the ratas fixed for Vaikom yarn will not be available to tha Rhat yarn workers. The Indastrial Relations Committee has fixed different rates for rhat yarn and Vaikom yarn and the management will pay the rates fixed for tha differant variaties as given in the Industrial Relations Committee.

10. To sum up the workmen in the Geo Fabrics will be givan 6¼ per cent of the total earnings towards bonus for tha year 1953-54. The three workmen whose names are mentionad in issae 3 will be given work as other workmen in the management concern. Their waga-rates will be like those of other workmen. The rates fixad in the Industrial Relations Committee will ba given to the workmen when they engage in the production of salith and rolling yarn. I pass the award on tarms and conditions given above and it will become enforceable after thirty days of its pablication in the Government Gazatte.

Ernakulam,
14-8-1957.

V. U. Joseph,
Industrial Tribunal No. II.

APPENDIX.

Exhibits marked on the side of the management.

Ext. E1. Memorandum of settlement dated 20-7-54 signed by the Asst. Labour Commissioner, Alwaye.

Exhibits marked on the side of the union.

Ext. W1. Letter dated 10-5-1955 addressed to the Manager, Geo Fabrics, Palluruthy by the Union Secretary.

„ W2. Memorandum of demands dated 18-12-1954 submitted by the workers.

Witnesses examined on the side of the management.

EW1. Sri C. V. Mathew.

Witnesses examined on the side of the union.

WW1. Sri Markose.

WW2. „ O. M. Makkotha.

Kerala Gazette No. 37 dated 10th September 1957.
PART I

Labour and Local Administration Department

NOTIFICATION

No. L. Dis. 17255/57/L&LAD.

Dated, Trivandrum, 2nd September 1957.

The award of the Industrial Tribunal, No. II, Ernakulam, in respect of the dispute between the Manager, St. Vincent Tile Works, Thalore, Pudukad, and their workmen represented by the Secretary, The Tile Factory Workers' Union, Manali, Pudukad received by Government on 23-8-1957 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
P. I. Jacob,
Secretary.

Before

Sri V. U. Joseph, B. A., B. L.,
Industrial Tribunal No. II, Ernakulam.

INDUSTRIAL DISPUTE No. 3/57

Between

THE MANAGER

St. Vincent Tile Works, Thalore, Pudukad

And

THE SECRETARY,

The Tile Factory Workers' Union, Manali, Pudukad

Representations:—

Advocate Sri T. R. Paul for management.
Advocate Sri N. Gangadhara Menon for union.

AWARD.

1. The dispute between the parties given above was referred to this Tribunal for adjudication by order No. L. Dis. 30563/56/DD of the Department of Labour, Government of Kerala dated 12-1-1957. The issue referred for adjudication is given below:—

" Whether the management is justified in refusing employment to the following workmen from 13-10-1956? If not, to what relief are the workmen entitled?"

1. Mampra Thundi
2. Chennamangalam Ammini
3. Velayudhan Thanka.
4. Naduvil Janu
5. Kannamkulam Ammini
6. Erattaparambil Lekshmi
7. Raman
8. Velayudhan
9. Vazhakalan Ouseph.

2. In the statement of the union it is contended that the workmen covered by this dispute are permanently employed in the management concern. All of them have put in service ranging from six months to 2½ years. All the workmen whose names are given in the order of reference are engaged in filling clay-pits which is an essential process in the manufacturing of tiles. This clay-pit section was temporarily closed on 13-10-1956 and from that day onwards all these nine workers were denied employment. The Union submits that the above closure is not due to commercial reasons. It is only to circumvent the statutory provisions for lay off compensation legitimately due to the workmen. It is clear that the closure and the consequent discharge resulted in the total unemployment of workmen in the factory. When stocks of accumulated clay pits were completely exhausted other sections in the tile factory were also closed. In order to avert this catastrophe other workers are now working overtime with great mental and physical strain on them. The closure and the consequent denial of employment to these workmen are illegal and malafied. The concern is a progressive one and the overall finances are very satisfactory. The union therefore prays for an order to reinstate the workers with their back wages and also for such other reliefs that are prayed for during the pendency of the dispute.

3. In the statement of the management it is stated that the workmen whose names are mentioned in the order of reference were never the workers of the management concern. One Vazhakala Devassy, a general contractor is given the contract for filling the clay pits. He is a general contractor who has taken same sort of work in other companies also. The said Devassy with the assistance of three or four persons work in the factory for ten to twelve days in a month and go over to other factories for doing the same sort of work which he has contracted for. After executing work in other factories he comes back as and when required. He had no permanent workers. For each day he collects persons available to him according to his necessity. The above said Devassy or his men did not turn up for filling clay pits from 3-10-1956 and when questioned about it, it was said that they had some other urgent work and hence cannot come. Afterwards also they have not come. The contractor or his workers were never refused work. On the other hand they refused to work. Consequently the permanent workers employed in the company were asked to fill the clay pits for preparing and seasoning the clay which they refused and thus the working of the company was paralysed for a time. The Manager reported the matter to the Labour Officer and requested him to interfere in the matter and settle the dispute. Accordingly a conference was convened by the Labour Officer and in a tripartite conference the entire dispute was settled on 29-12-1956 by which it was agreed to continue the work without the contract workers. The management has not refused employment to any workmen. The persons mentioned in the schedule are not employees of the company and they are not entitled to

any relief. The claim of the union after settlement is prima facie not maintainable. The reference is therefore only to be dismissed.

4. The management has provided work for all the workers whose names are mentioned in the order of reference and they have settled the question of payment of wages to the workmen for the period of involuntary unemployment. The representatives of parties filed a statement in Court stating that they have adjusted the matter and there is no dispute pending between them. The deed of settlement filed by them is given below as 'annexure'. In the deed of settlement Mr. E. K. Antony signed representing the management and the President of the Union Mr. P. S. Numboodiri represented the Union. I pass the award on terms and conditions given in the deed of settlement which is given below as 'annexure'. The award is to become enforceable after thirty days of its publication in the Government Gazette.

Ernakulam,
22-8-1957.

V. U. JOSEPH,
Industrial Tribunal No. II.

ANNEXURE

In the Court of the Industrial Tribunal No. II, Ernakulam.

Industrial Dispute No. 3/57

The above dispute is settled between the parties and there is nothing pending adjudication between the parties and the same may be dismissed without cost to either parties.

Ernakulam,
19-8-1957.

(Sd.)
E. K. Antony,
For the Management.

(Sd.)
P. S. Numboodiri,
For the Tile Factory Workers' Union.

Kerala Gazette No. 37 dated 10th September 1957.
PART I

Labour and Local Administration Department

NOTIFICATION

No. L. Dis. 16470/57/L&LAD.

Dated, Trivandrum, 28th August 1957.

The award of the Industrial Tribunal, Alleppey, in respect of the dispute between Messrs. (1) The Standard Motor Service Ltd., Ettumanoor, (2) The Bharat Motors, Ettumanoor and their workmen represented by (1) The All Kerala Motor Workers' Union, Vaikom and (2) The Central Travancore Motor Workers' Union, Kottayam received by Government on 14-8-57 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
P. I. Jacob,
Secretary.

Before

THE INDUSTRIAL TRIBUNAL, ALLEPPEY

Present :

Sri K. Shahul Hameed

In

Industrial Dispute No. 3 of 1956

Between

1. The Standard Motor Service Ltd., Ettumanoor.
2. The Bharat Motors, Ettumanoor.

And

The workmen of the above concerns represented by (1) The All Kerala Motor Workers' Union, Vaikom and (2) The Central Travancore Motor Workers' Union, Kottayam.

Representation :

Sri K. K. Kuncheriya, Honorary Law Officer to the Bharat Motors Ltd., Ettumanoor for management.

Sri N. Gangadhara Menon, Advocate, Ernakulam for Unions.

AWARD

1. Government of the former Travancore-Cochin State by order No. L4-2441/56/DD dated 1-3-1956 have referred the abovesaid industrial dispute to this Tribunal for adjudication. The annexure

to the order of reference mentioned the following matters to be adjudicated.

(i) Whether the existing system of daily payment of wages be replaced by a monthly payment system ?

(ii) Whether the salary, allowance, etc., of drivers, condnctors, checkers, booking clerks, office and petrol pump peons require revision and reorganisation? If so to what extent ? Should any time scale be fixed for the said category of employees, and if so, in what manner ?

(iii) What should be the nnmber of working days in a month for drivers, conductors, checkers and cleaners in order to make them eligible for a month's full wages ?

(iv) Are the employees entitled to any annual or special leave and if so, what shonld be the nature and duration of such leave ?

(v) Whether all workmen who have put in six months service are entitled to get confirmation ? If not what shonld be the qnalifying period and condition for confirmation ?

(vi) Whether the managements of Standard Motor Service Ltd. and Bharat Motors Ltd., are liable to pay their workmen concerned, the arrears of annual increments from 1951 as per the collective agreement of 52.

(vii) What relief and against whom—Standard Motor Service Ltd. or Bharat Motors Ltd.,—if any are the workers entitled to as regards the following items of their claims :

(a) The Security deposits,
(b) Provident Fnnd contributions,
(c) Gratuity,
(d) Arrears of unpaid wages, and
(e) Secnrity of service.

(viii) Whether the employees are entitled to get free pass for travel, from the company ?.

(ix) Whether the workers shonld be given nniforms by the management, and if so, how many in an year ?

(x) Whether the night shift workers should be paid any special allowance, if so, how much ?

(xi) Whether the workers who are sent to do out-station work should be paid batta ? If so, what should be the qnantum thereof.

(xii) Whether the non-employment of Mathew Varghese, condnctor, N. K. Pillai, Conductor and A. T. Pylee, Checker is justifiable ? What reliefs, if any, are they entitled to ?

(xiii) Are the workers entitled to get bonus for the years 1952, 1953 and 1954? If so, what should be the rate thereof?

(xiv) Whether the denial of employment to the workers mentioned in Annexures A an B by the managements of Messrs. Standard Motor Service, Ltd., and Messrs. Bharat Motors Ltd., respectively is justifiable; and if not to what reliefs are these workers entitled?

ANNEXURE A.

Standard Motor Service Ltd., Ettumanoor.

1.	K. J. Chacko	Driver	From 1·9·1955
2.	K. Bhaskaran Nair	Driver	6·10·1955
3.	C. P. Varughese	Conductor	6·10·1955
4.	K. R. Sivathanu Pillai	Driver	15·9·1955
5.	K. K. Thomas	Checker	16·11·1955
6.	G. Karunakara Panicker	Checker	16·11·1955
7.	V. V. Kurien	Checker	16·11·1955
8.	M. N. Madhavan Nair	Checker	23·9·1955
9.	P. Gopalan	Fitter	3·2·1956
10.	K. N. Krishnankutty	Electrician	3·2·1956
11.	Abdul Karim	Cleaner	3·2·1956
12.	N. T. Chacko	Driver	24·1·1956
13.	K. Gopalakrishnan Nair	Conductor	24·1·1956
14.	M. V. Narayana Pillai	Conductor	24·1·1956
15.	P. N. Karunakaran	Cleaner	24·1·1956
16.	V. K. Neelakantan	Fitter	24·1·1956
17.	K. R. Kesavan Nair	Checker	1·1·1956
18.	C. K. Sivaraman	Conductor	30·12·1955
19.	R. Sivasankaran Nair	Conductor	7·1·1956
20.	V. K. Nanu	Driver	26·12·1955
21.	Jos K. Nannakuzhy	Driver	26·12·1955
22.	Ouseph Joseph	Conductor	30·12·1955
23.	Joseph Kotteril	Conductor	7·1·1956
24.	E. Narayanan	Conductor	26·12·1955
25.	P. M. Aliyar	Conductor	7·1·1956
26.	P. U. John	Conductor	30·12·1955
27.	K. V. Ulahannan	Conductor	30·12·1955
28.	K. J. Joseph	Checker	1·1·1956
29.	G. G. Narayananunni	Checker	1·1·1956
30.	V. V. Chacko	Checker	1·1·1956
31.	K. J. Mathew	Asst. Checking Inspector	7·7·1955
32.	K. T. Varkei	Driver	30·12·1955
33.	K. M. Mathew	Checker	10·9·1955
34.	M. G. RaJappan	Wood worker	15·9·1955

35.	K. G. Kunjappan	Iron worker	6-10-1955
36.	K. Thankappan	Iron worker	15-9-1955
37.	P. K. Velu Asari	Iron worker	27-7-1955
38.	K. A. Ramakrishna Panicker	Driver	24-1-1956
39.	K. V. Varkey		

ANNEXURE B.

Bharat Motors, Ettumanoor

			From
1.	M. P. Joseph	Fitter	22-1-1956
2.	C. N. Nilakanta Pillai	Driver	31-8-1954
3.	A. T. Pylee	Checker	13-6-1955
4.	P. Sankaran Nair	Checker	26-12-1955
5.	M. P. Ulahannan	Cleaner	26-12-1955
6.	V. Sankaran	Iron worker	1-1-1956
7.	P. Rama Waryar	Conductor	28-1-1956
8.	N. Kesavan	Conductor	24-1-1956
9.	R. C. Chacko	Conductor	26-1-1956
10.	C. T. Varki	Conductor	26-1-1956
11.	P. C. Sebastian	Driver	22-1-1956
12.	V. O. Sheriff	Conductor	26-1-1956
13.	P. T. John	Checker	24-1-1956
14.	A. V. George	Checker	1-2-1956
15.	A. Viswanatha Chettiar	Electrician	24-1-1956
16.	Mathew Varghese	Conductor	18-6-1955
17.	K. O. Joseph	Peon	28-5-1955
18.	S. Velappan Nair	Driver	25-11-1955
19.	K. C. Abraham	Conductor	24-12-1955
20.	M. P. Raman Pillai	Conductor	24-12-1955
21.	P. C. Philip	Driver	24-12-1955
22.	E. T. Varghese	Conductor	9-12-1955
23.	P. L. Mathai	Conductor	30-12-1955

2. The parties have filed their statements. The unions have examined eleven witnesses WW1 to WW11 and marked Exts. W1 to W19. The managements have marked Exts. E1 to E82. The management of Standard Motors have compromised the issue No. 14 Annexure A with the unions on 3-5-1957 and I have passed a compromise award therein on 21-5-1957 which has been published in Gazette No. 24 dated 11th June 1957 Part I. On 13-5-1957 Sri K. K. Kuncheriya, Honorary Law Officer to the company has put in a petition stating that in Comp. P.No.8/56 the Hon'ble High Court has appointed Sri P.K. Varghese, B.A.B.L., Ernakulam as Administrator of Bharat Motors (Private)Ltd., that he has assumed management of the company; and that therefore the Administrator should also be impleaded in the case. Notice was ordered to the Administrator. No objections were filed and he was impleaded. Evidence relating

to the other issues was being recorded and the case stood posted to 12·8·57. Meanwhile on 30·7·57 a petition signed by Sri K. K. Kuncheriya and Sri N. Gangadhara Menon was filed in Court stating that as a compromise between the Bharat Motors and the unions had been effected with regard to all the issues referred for adjudication, the case might be advanced to 30·7·57 so as to enable them to file the memorandum of settlement arrived at between the parties. That prayer was allowed, and the following compromise petition embodying all the terms and signed by the parties, their representatives, and the Administrator was filed before me.

Before the Industrial Tribunal, Alleppey,

I. D. No. 3 OF 1956.

Employer : 1. The New Bharat Motors (Private) Ltd., Ettumannoor.

Employees : 1. The All Kerala Motor Workers' Union, Vaikom,

2. The Central Travancore Motor Workers' Union, Kottayam.

The EMPLOYER represented by THE NEW BHARAT MOTORS (PRIVATE) LTD., AND THE EMPLOYEES represented by the ALL KERALA MOTOR WORKERS' UNION, VAIKOM and THE CENTRAL TRAVANCORE MOTOR WORKERS' UNION, KOTTAYAM, beg to submit that the disputes subsisting between these parties have been settled as per the compromise entered into, between them and pray that an award as per the said compromise the terms of which are incorporated hereunder be passed, by the Hon'ble Tribunal.

Terms of Compromise.

1. The employer agrees to reinstate in service nine workmen listed in the schedule I attached hereto with effect from the date of this compromise.

2. *Bonus* :—The employer agrees that bonus at the rate of 1 1/4 month's basic wages per annum is payable to the workmen for the five years 1952 to 1956 (both inclusive) and also agrees to pay the same to all those workmen who have not been paid accordingly. The balance of bonus upto 31·7·1954 shall be paid on 25·12·1957. The bonus up to 1955 shall be paid in two equal instalments the first instalment on 1·3·1958 and the second instalment on 25·12·1958 and the bonus till 1956 s..ll be paid on 1·3·1959.

3. *Increment* :—The employer agrees that an increase of Rs. 5 per mensem to the daily paid workmen as shown in Schedule II

attached to this agreement and an increase of Rs. 10 per mensem to the monthly paid workmen as mentioned in Schedule III filed along with this compromise shall be made in their respective pay with effect from June 1957 onwards. This increment will not prejudicially affect any person who is getting a higher pay from the employer on or before June 1957.

4. *Annual leave*:—With regard to annual leave the provision in clanse 2 of the agreement dated 9-8-52 is agreed.

(a) Drivers and conductors will be entitled to 10 days privilege leave with full pay and 30 days sick leave with half in a year.

(b) Checkers and other employees will be entitled to 15 days privilege leave with full pay and 30 days sick leave with half pay in a year.

(*Note* :—An employee who has put in one Year's service alone will be eligible for privilege leave. Every application for sick leave shonld be accompanied by a medical certificate in support of leave application).

5. *Confirmation* :—It is agreed that an employee who has actually worked for hundred and fifty days (150) shall be entitled to confirmation.

6. Since the Management is providing free pass facilities the claim to free pass is not pressed by the employees.

7. *Overtime Allowance* :—It is mutually agreed that overtime allowance is payable as per statntory provisions.

8. *Batta to workshop employees* :—It is agreed that workshop employees working outside the workshop at break-down places shall be paid As. 8 (annas eight) as batta for working during lunch and dinner honrs and As. 4 (Annas four) as batta for working during breakfast and afternoon tiffin hours.

9. *Past leave claims* :—The employer agrees to pay a lump snm of Rs. 300 in full settlement of all past leave claims till the date of compromise.

10. The employer agrees to issue proper receipts for the Provident Fund to the employees. It is also agreed that the employees shall be entitled to get 3 per cent interest on their security amount deposited with the Management.

11. In view of the settlement in paras 1 to 10, the other issues in this dispute are not pressed by the employees as far as this employer is concerned.

12. Both the employer and the employees mutnally agree to, and accept the terms and provisions stipnlated in this compromise and agree to settle this industrial dispute accordingly.

It is most humbly prayed that this Hon'ble Tribunal may be pleased to pass an award as per the terms of the above compromise.

For the Employer—

1.	C. L. Varkey, 'B' Group	(Sd.)
2.	V. M. Joseph, 'A' Group	(Sd.)
3.	P. K. Varghese, B.A.B.L., Administrator in Comp. P. 8/56 of Kerala High Court	(Sd.)
	K. K. Kuncheriya, Honorary Law Officer	(Sd.)

For the Employees

1.	Secretary to A. K. M. Union	(Sd.)
2.	Secretary to C. T. M. Union	(Sd.)
	Advocate for Union N. Gangadhara Menon	(Sd.)

Date : 30-7-1957.

SCHEDULE I.

List of workmen to be reinstated.

'A' Group

1.	P. Sankaran Nair	Checker
2.	P. J. John	Checker
3.	K. Mathew Varghese	Conductor
4.	A. T. Pylee	Checker

'B' Group

1.	M. P. Joseph	Fitter
2.	M. P. Raman Pillai	Conductor
3.	P. C. Philip	Driver
4.	K. C. Abraham	Conductor
5.	C. N. Neelakanda Pillai	Driver

P. K. Varghese, B.A.B.L. Administrator in Comp. M. P. 8/56 of Kerala High Court	(Sd.)
Secretary to A. K. M. Union	(Sd.)
Secretary to C. T. M. Union	(Sd.)
N. Gangadhara Menon, Advocate for Union	(Sd.)
K. K. Kuncheriya, Honorary Law Officer	(Sd.)

SCHEDULE II.

List of daily paid workers
'B' group

S. No.	Name	Designation	Basic pay under minimum wages Notification	Interim increment paid	Increment to be paid in June 1957	Total pay from June 1957 onwards
1	Joseph Mathai	Checker	35-0-0	..	5-0-0	40-0-0
2	K. Balakrishnan Nair	,,	35-0-0	..	5-0-0	40-0-0
3	Augusthy Chacko	,,	35-0-0	..	5-0-0	40-0-0
4	V. N. Krishnan Kutty Nair	,,	35-0-0	..	5-0-0	40-0-0
5	M. V. Philipose	,,	35-0-0	..	5-0-0	40-0-0
6	K. M. Hameed	Conductor	30-0-0	..	5-0-0	35-0-0
7	V. T. Scariah	,,	30-0-0	..	5-0-0	35-0-0
8	P. C. John	,,	30-0-0	..	5-0-0	35-0-0
9	V. O. Sheriff	Checker	35-0-0	..	5-0-0	40-0-0
10	Varkey Varkey	,,	35-0-0	..	5-0-0	40-0-0
11	V. Ulahannan	Driver	40-0-0	..	5-0-0	45-0-0
12	Chacko Mathew	,,	40-0-0	..	5-0-0	45-0-0
13	E. C. John	,,	40-0-0	..	5-0-0	45-0-0
14	R. P. Lakshmanan Pillai	,,	40-0-0	..	5-0-0	45-0-0
15	K. N. Thomas	,,	40-0-0	..	5-0-0	45-0-0
16	K. T. Thomas	Condur[illegible]	30-0-0	..	5-0-0	35-0-0
17	P. K. Sreedharan	,,	30-0-0	..	5-0-0	35-0-0

8

C. 2914.

18	P. A. Abraham	Driver				40-0-0	..	5-0-0		45-0-0
19	N. Kesavan	Conductor				30-0-0	..	5-0-0		35-0-0
20	P. L. Mathai	,,				30-0-0	..	5-0-0		35-0-0
21.	V. P. Mathai	,,				30-0-0	..	5-0-0		35-0-0
22	K. C. Abraham	,,				30-0-0	..	5-0-0		35-0-0
23	P. C. Philip	Driver				40-0-0	..	5-0-0		45-0-0
24	C. N. Neelakanda Pillai	,,				40-0-0	..	5-0-0		45-0-0
25	K. Raman	Cleaner	Daily	Rs 1-14-0	for 25 days	Rs 46-14-0	Increment	5-0-0	Total	51-14-0
26	K. K. Thankappan	Fitter	,,	2-12-0	,,	68-12-0	,,	5-0-0	,,	73-12-0
27	U. K. Velayudhan	B. Smith	,,	2-8-0	,,	62-8-0	,,	5-0-0	,,	67-8-0
28	N. Kochukuttan	Fitter	,,	3-8-0	,,	87-8-0	,,	5-0-0	,,	92-8-0
29	K. N. Krishnan	B Smith	,,	2-8-0	,,	62-8-0	,,	5-0-0	,,	67-8-0
30	K. A. Kumaran	Fitter	,,	2-4-0	,,	56-4-0	,,	5-0-0	,,	61-4-0
31	P. K. Narayanan	Cleaner	,,	2-0-0	,,	50-0-0	,,	5-0-0	,,	55-0-0
32	S. Kumaran	,,	,,	1-12-0	,,	43-12-0	,,	5-0-0	,,	48-12-0

P. K. Varghese, B.A.B.L., Administrator in Comp. M. P. 8/56 (Sd.)
of Kerala High Court

Secretary to A. K. M. Union (Sd.)

Secretary to C. T. M. Union (Sd.)

N. Gangadhara Menon, Advocate for Union (Sd.)

K. K. Kuncheriya, Honorary Law Officer (Sd.)

SCHEDULE III.

List of monthly paid workers

'B' Group

S. No.	Name	Designation	Basic pay during conciliation period in 1955 Rs.	Interim increment allowed Rs.	Increment to be paid in June 1957 Rs.	Total pay from June 1957 onwards Rs.
1	Ulahannan Mathew	Checker	35-0-0	5-0-0	5-0-0	45-0-0
2	P. J. Varkey	C. Inspector	40-0-0	10-0-0	..	50-0-0
3	K. A. Joseph	Conductor	35-0-0	..	10-0-0	45-0-0
4	P. T. Varghese	,,	35-0-0	..	10-0-0	45-0-0
5	A. O. Abraham	,,	40-0-0	..	10-0-0	50-0-0
6	T. Gopalan Nair	Driver	50-0-0	5-0-0	5-0-0	60-0-0
7	B. Sankaran Chettiar	,,	50-0-0	..	10-0-0	60-0-0
8	M. J. Joseph	,,	55-0-0	..	10-0-0	65-0-0
9	T. V. Joseph	Conductor	35-0-0	..	10-0-0	45-0-0
10	K. M. Varkey	,,	35-0-0	..	10-0-0	45-0-0
11	V. D. Thomas	,,	40-0-0	..	10-0-0	50-0-0
12	P. K. Chandrasekharan Nair	,,	35-0-0	..	10-0-0	45-0-0
13	C. T. Joseph	,,	45-0-0	..	10-0-0	55-0-0
14	P. M. Varkey	,,	40-0-0	5-0-0	5-0-0	50-0-0
15	M. P. Raman Pillai	,,	35-0-0	..	10-0-0	45-0-0
16	P. D. Sebastian	Driver	45-0-0	..	10-0-0	55-0-0
17	P. A. Thomas	,,	50-0-0	..	10-0-0	60-0-0
18	K. N. Narayanan (Including Dearness Allowance)	..	95-0-0	..	10-0-0	105-0-0

19	U. K. Sankaran	do.	..	82-8-0	..	10-0-0	92-8-0
20	M. Varghese	do.	..	85-0-0	..	10-0-0	95-0-0
21	C. Krishnan	do.	..	60-0-0	..	10-0-0	70-0-0
22	K. Raman Pillai	do.	..	50-0-0	..	10-0-0	60-0-0
23	T. M. Paulose	do.	..	50-0-0	2-0-0	8-0-0	60-0-0
24	P. V. Pappen	do.	..	75-0-0	..	10-0-0	85-0-0
25	M. P. Joseph	do.	..	70-0-0	..	10-0-0	80-0-0
26	N. S. Joseph	do.	B. O.	70-0-0	5-0-0	5-0-0	80-0-0
27	T. K. Alexander	do.	..	67-8-0	15-0-0	..	82-8-0
28	P. J. Thomas	do.	,,	65-0-0	2-8-0	7-8-0	75-0-0
29	P. V. Vasudevan Unny	do.	,,	72-8-0	15-0-0	..	87-8-0
30	V. J. Mathew	do.	H. C.	97-8-0	..	10-0-0	107-8-0
31	N. S. Sebastian	do.	Clerk	72-8-0	..	10-0-0	82-8-0
32	M. K. Cherian	do.	,,	70-0-0	..	10-0-0	80-0-0
33	C. V. Thomas	do.	Peon	50-0-0	..	10-0-0	60-0-0

P. K. Varghese, B.A.B.L., Administrator in Comp. M. P. 8/56 of Kerala High Court (Sd.)

N. Gangadhara Menon, Advocate for Union (Sd.)

Secretary to A. K. M. Union (Sd.)

Secretary to C. T. M. Union (Sd.)

K. K. Kuncheriya, Honorary Law Officer (Sd.)

SCHEDULE III

List of daily paid workers

'A' Group

S. No.	Name	Designation	Basic pay under minimum wages Notification Rs.	Interim increment paid Rs.	Increment to be paid in June 1957 Rs.	Total pay form June 1957 onwards Rs.
1	N. V. Joseph	Checker	35-0-0	..	5-0-0	40-0-0
2	C. K. Sreedharan	,,	35-0-0	5-0-0	..	40-0-0
3	K. G. Antoney	,,	35-0-0	..	5-0-0	40-0-0
4	P. K. Ouseph	,,	35-0-0	..	5-0-0	40-0-0
5	V. N. Ramakrishnan	,,	35-0-0	..	5-0-0	40-0-0
6	Stephen Lukose	,,	35-0-0	..	5-0-0	40-0-0
7	A. V. George	,,	35-0-0	..	5-0-0	40-0-0
8	T. J. George	,,	35-0-0	..	5-0-0	40-0-0
9	P. J. John	,,	35-0-0	..	5-0-0	40-0-0
10	A. T. Pylee	,,	35-0-0	..	5-0-0	40-0-0
11	R. Krishna Pillai	Driver	40-0-0	..	5-0-0	45-0-0
12	K. U. Thomas	,,	40-0-0	..	5-0-0	45-0-0
13	P. J. Augustine	,,	40-0-0	..	5-0-0	45-0-0
14	P. J. Joseph	,,	40-0-0	..	5-0-0	45-0-0
15	M. K. Mathai	,,	40-0-0	..	5-0-0	45-0-0
16	P. K. Sayed Mohammed	,,	40-0-0	..	5-0-0	45-0-0
17	P. N. Narayana Kaimal	,,	40-0-0	..	5-0-0	45-0-0

18	S. N. Krishnan Nair	,,			40-0-0	5-0-0	..		45-0-0
19	T. M. Mathai	Conductor			30-0-0	..	5-0-0		35-0-0
20	T. T. Joseph	,,			30-0-0	..	5-0-0		35-0-0
21	A. M. Jacob	,,			30-0-0	..	5-0-0		35-0-0
22	R. C. Chacko	,,			30-0-0	..	5-0-0		35-0-0
23	P. Rama Warrier	,,			30-0-0	..	5-0-0		35-0-0
24	C. V. Philipose	,,			30-0-0	..	5-0-0		35-0-0
25	K. Mathew Varghese	,,			30-0-0	..	5-0-0		35-0-0
26	C. T. Varkey	,,			30-0-0	..	5-0-0		35-0-0
27	V. Sankaran	Fitter	Daily	Rs. 3-0-0 for 25 days	Rs. 75-0-0	Increment	5-0-0	Total	80-0-0
28	K. N. Neelakantan	B/Smith	,,	3-0-0 ,,	75-0-0	,,	5-0-0	,,	80-0-0
29	A. Viswanatha Chettiar	Electri.	,,	2-8-0 ,,	62-8-0	,,	5-0-0	,,	67-8-0
30	V. N. Thankappan	B/Smith	,,	2-0-0 ,,	50-0-0	,,	5-0-0	,,	55-0-0
31	Nanoo Narayanan	,,	,,	2-8-0 ,,	62-8-0	,,	5-0-0	,,	67-8-0
32	K. Bhaskaran	,,	,,	2-12-0 ,,	68-12-0	,,	5-0-0	,,	73-12-0
33	K. Thankappan	,,	,,	2-8-0 ,,	62-8-0	,,	5-0-0	,,	67-8-0

P. K. Varghese, B.A.B.L., Administrator in Comp. M. P. 8/56 of Kerala High Court (Sd.)

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N. Gangadhara Menon, Advocate for Union (Sd.)

K. K. Kuncheriya, Honorary Law Officer (Sd.)

SCHEDULE III
List of monthly paid Workers
'A' Group

S. No.	*Name*	*Designation*	*Basic pay during conciliation period in 1955* Rs.	*Interim increment allowed* Rs.	*Increment to be paid in June 1957* Rs.	*Total pay from June 1957 onwards* Rs.
1	C. M. Kuriakose	Checker	40-0-0	..	10-0-0	50-0-0
2	V. M. Varghese	,,	40-0-0	..	10-0-0	50-0-0
3	K. M. Thomas	,,	35-0-0	..	10-0-0	45-0-0
4	K. A. Joseph	,,	40-0-0	..	10-0-0	50-0-0
5	N. P. Philip	,,	35-0-0	..	10-0-0	45-0-0
6	J. Thomas	,,	35-0-0	..	10-0-0	45-0-0
7	C. A. Joseph	,,	35-0-0	..	10-0-0	45-0-0
8	S. Abdulkhader	,,	40-0-0	5-0-0	5-0-0	50-0-0
9	K. R. Krishnan	Driver	45-0-0	..	10-0-0	55-0-0
10	R. Ramakrishna Pillai	,,	45-0-0	..	10-0-0	55-0-0
11	K. T. Jacob	,,	55-0-0	..	10-0-0	65-0-0
12	K. C. John	,,	45-0-0	..	10-0-0	55-0-0
13	A. T. Mathai	,,	45-0-0	..	10-0-0	55-0-0
14	K. Govindan Nair	,,	50-0-0	..	10-0-0	60-0-0
15	K. V. Joseph	,,	45-0-0	..	10-0-0	55-0-0
16	P. M. Mani	,,	50-0-0	..	10-0-0	60-0-0
17	T. M. Krishnankutty Marar	Conductor	35-0-0	..	10-0-0	45-0-0
18	D. Balakrishnan Nambiar	,,	35-0-0	..	10-0-0	45-0-0
19	Joseph Varkey	,,	35-0-0	..	10-0-0	45-0-0
20	T. K. Chellappan Nair	,,	35-0-0	..	10-0-0	45-0-0

21	N. Madhavan Nair	,,	35-0-0	..	10-0-0	45-0-0
22	P. Sankaran Nair	Checker	35-0-0	..	10-0-0	45-0-0
23	C. V. Paul	,,	40-0-0	..	10-0-0	50-0-0
24	K. J. Joseph	Conductor	40-0-0	..	10-0-0	50-0-0
25	P. J. Ouseph	,,	40-0-0	..	10-0-0	50-0-0
26	M. A. Chellappan	,,	40-0-0	..	10-0-0	50-0-0
27	K. C. Mathew	,,	40-0-0	..	10-0-0	50-0-0
28	K. Padmanabhan Assary (Including D.A.)	..	125-0-0	..	10-0-0	135-0-0
29	C. C. Krishnan do.	..	80-0-0	..	10-0-0	90-0-0
30	P. O. Thomas do.	..	97-0-0	..	10-0-0	107-0-0
31	M. N. Surendranatha Hegdon do.	..	50-0-0	7-0-0	3-0-0	60-0-0
32	Isac Isac do.	..	65-0-0	..	10-0-0	75-0-0
33	K. G. Damodaran do.	..	42-0-0	..	10-0-0	52-0-0
34	M. P. Ulahannan do.	..	42-0-0	..	10-0-0	52-0-0
35	K. V. Varghese do.	..	67-8-0	15-0-0	..	82-8-0
36	C. V. Joseph do.	..	65-0-0	..	10-0-0	75-0-0
37	P. P. Joseph do.	..	60-0-0	7-8-0	2-8-0	70-0-0
38	Ulahannan Pyle do.	..	60-0-0	7-8-0	2-8-0	70-0-0
39	K. C. George	Clerk	55-0-0	..	10-0-0	65-0-0
40	M. N. Emmanuel	,,	55-0-0	..	10-0-0	65-0-0

P. K. Varghese, B.A.B.L., Administrator in Comp. M. P. 8/56 of Kerala High Court (Sd.)
Secretary to A. K. M. Union (Sd.)
Secretary to C. T. M. Union (Sd.)
N. Gangadhara Menon, Advocate for Union (Sd.)
K. K. Kuncheriya, Honorary Law Officer (Sd.)

3. This compromise closes the adjudication in respect of all the issues between the management of Bharat Motors and the two unions. The terms of the compromise are fair and reasonable. The workmen would certainly get immediate benefit from the terms of the settlement which would have been considerably delayed had the adjudication taken its normal course. As a result of the company petition, the Bharat Motors (Private) Ltd. have been divided into two groups A and B and Sri V. M. Joseph and Sri C. L. Varkey have signed the compromise for the two groups respectively. The Administrator also has signed the compromise. Therefore I accept the compromise and pass this award in terms thereof. No order as to costs. Now there remain only the issues other than No. 14 with the management of Standard Motors Ltd. for which another award in continuation of this will follow in due course. The parties are directed to implement the terms of this ward forthwith. This award will come into operation from the date of its publication in the official Gazette.

Alleppey,
13—8—1957.

K. SHAHUL HAMEED,
Industrial Tribunal.

APPENDIX

Witness for the management

Nil.

Exhibits for the management

Exhibit	E1	Service slip dated 30-12-55.
,,	E2	Memo dated 9-7-55 and explanation by K. J. Joseph.
,,	E3	Letter dated nil from P. J. John to the Managing Director.
,,	E4	Letter dated nil from P. J. John to the managing Director.
,,	E5	Explanation in Memo dated 11-1-56 by P. J. John.
,,	E6	Do.
,,	E7	Memo dated 24-12-54 and explanation by P. J. John.
,,	E8	Do. 20-11-54 do.
,,	E9	Do. 23-11-54 do.
,,	E10	Do. 24-11-54 do.
,,	E11	Do. 1-12-54 do.
,,	E12	Do. 28-1-55 do.
,,	E13	Do. 15-3-55 do.
,,	E14	Do. 1-4-55 do.
,,	E15	Do. 12-12-55 do.
,,	E16	Letter dated 24-2-55 from P. J. John.

Exhibit E17 Copy of letter dated 4·4·55 to Sri P. J. John.

" E18 Statement by P. J. John dated 4·7·55.

" E19 Memo dated 9·2·55 and explanation by G. Karunakaran Panicker.

" E20 Memo dated 10·10·55 and explanation by G. Karunakaran Panicker

" E21 Memo dated 23·11-55 and explanation by P. Sankaran Nair.

" E22 Service slip dated 30-11-55.

" E23 Memo dated 26·2·55 and explanation by P. Sankaran Nair.

" E24 Memo dated 27·4·55 and explanation by P. Sankaran Nair.

" E25 Service slip dated 24·3·55.

" E26 Memo dated 6·6·55 and explanation dated 17·6·55 by P. Sankaran Nair.

" E27 Service slip dated 25·5·55.

" E28 Memo dated 24·6·55 and explanation by P. Sankaran Nair.

" E29 Service slip dated 12·6·55.

" E30 Memo dated 22·6·55 and explanation by P. Sankaran Nair.

" E31 Service slip dated 14·6·55.

" E32 Memo dated 21·10·55 and explanation by P. Sankaran Nair.

" E33 Copy of letter dated 3·10·55 to V. Sankaran Nair from the managing Director.

" E34 Letter dated 6·10·55 from P. Sankaran Nair to the Managing Director.

" E35 Letter dated 18-1·56 from M. V. Narayana Pillai to the Managing Director.

" E36 Letter dated 7·10·55 from M.V. Narayana pillai to the Managing Director.

" E37 Bit notice.

" E38 Bit notice.

" E39 Letter dated 23·1·56 from Peter M. P. Joseph to Managing Director.

" E40 Medical certificate dated 22·1·56.

" E41 Memo dated 31·5-51 and explanation by K. R. Kesavan Nair.

" E42 Letter dated 1·7·55 from K. R. Kesavan Nair to the Managing Director.

Exhibit E43 Memo dated 1-7-55 and explanation by K. R. Kesavan Nair.
,, E44 Memo dated 3-7-55 and explanation by K. R. Kesavan Nair dated 11-7-55.
,, R45 Memo dated 9-7-55 and explanation by K. R. Kesavan Nair.
,, E46 Memo dated 16-7-55 and explanation by K.R. Kesavan Nair dated 4-8-55.
,, E47 Memo dated 27-8-55 and explanation by K. R. Kesavan Nair dated 20-9-55.
,, E48 Memo dated 6-9-55 and explanation by K. R. Kesavan Nair dated 20-9-55.
,, E49 Letter dated 17-9-55 from K. R. Kesavan Nair to the Managing Director.
,, E50 Copy of letter dated 19-9-55 to K. R. Kesavan Nair.
,, E51 Letter from K. R. Kesavan Nair dated 14-9-55 to the Managing Director.
,, E52 Explanation given by K. R. Kesavan Nair on 26-9-55 to the Memo issued on 22-9-55.
,, E53 Letter dated 21-9-53 from K. R. Kesavan Nair to the Standard Motor Union.
,, E54 Copy of letter dated 28-9-55 from the Standard Motor Union to K. R. Kesavan Nair.
,, E55 Copy of letter dated 29-9-55 from the Standard Motor Union to K. R. Kesavan Nair.
,, E56 Letter dated 22-10-55 by E. Narayanan.
,, E57 Service slip dated 13-10-55.
,, E58 Service slip dated 17-11-55.
,, E59 Memo dated 29-5-52 and explanation by C. G. Narayanan Unny.
,, E60 Memo dated 8-12-52 and explanation by C. G. Narayanan Unny.
,, E61 Memo dated 25-4-53 and explanation dated 3-5-53 do.
,, E62 Memo dated 18-3-53 and explanation do.
,, E63 Memo dated 17-12-52 and explanation do.
,, E64 Service slip dated 2-5-55.
,, E65 Memo dated 22-5-55 and explanation by C. G. Narayanan Unny.
,, E66 Memo dated 25-5-55 and explanation dated 10-6-55 by C. G. Narayanan Unny.
,, E67 Memo dated 27-5-55 and explanation by C. G. Narayanan Unny.
,, E68 Service slip dated 25-5-55

Exhibit E69 Letter from C. G. Narayanan Unny to the Managing Director dated 30-9-55.
,, E70 Memorandum of settlement.
,, E71 Copy of letter dated 28-12-55 to C. G. Narayanan Unny.
,, E72 Letter from C. G. Narayanan Unny to the Managing Director dated 9-1-56.
,, E73 Memo dated 30-11-55 and explanation by M. P. Raman Pillai.
,, E74 Memo dated 15-4-55 and explanation by M. P. Raman Pillai.
,, E75 Memo dated 7-6-55 and explanation by M. P. Raman Pillai.
,, E76 Memo dated 17-7-55 and explanation by M. P. Raman Pillai.
,, E77 Report of conductor.
,, E78 Memo dated 21-7-55.
,, E79 Memo dated 19-7-55.
,, E80 Memo dated 27-10-55.
,, E81 Memo dated 26-7-55.
E82 Memo dated 25-10-55.

Witnesses for Union.

WW1 K. J. Joseph.
WW2 P. J. John.
WW3 G. Karunakara Panicker.
WW4 P. Sankaran Nair.
WW5 M. V. Narayana Pillai.
WW6 M. P. Joseph.
WW7 K. R. Kesavan Nair.
WW8 E. Narayanan
WW9 C. G. Narayanan Unny.
WW10 M. P. Raman Pillai
WW11 V. M. Varghese.

Exhibits for Union.

Exhibit W1 Memo dated 24-12-55 to P. J. John.
,, W2 Memo dated 4-1-56 to P. J. John.
,, W3 Memo dated 2-2-56 to P. J. John.
,, W4 Memo dated 11-1-56 to P. J. John.
,, W5 Letter dated 9-2-55 to P. J. John.
,, W6 Letter dated 28-1-55 from the N. B. Motors to P. J. John.

Exhibit	W7	Letter dated 5·7·55 from the N. B. Motors to P. J. John.
,,	W8	Letter dated 30·7·55 from the N. B. Motors to P. J. John.
,,	W9	Letter dated 8·10-55 to P. J. John.
,,	W10	Letter dated 29·3·55 to P. J. John.
,,	W11	Letter dated 2-12·54 to P. J. John.
,,	W12	Letter dated 26·12-56 to P. J. John.
,,	W13	Postal receipt.
,,	W14	Memo dated 26·12-55 to E. Narayanan.
,,	W15	Postal receipt.
,,	W16	Memo dated 28·12·55 to C. Narayanan Unny.
,,	W17	Postal receipt.
,,	W18	Letter from C. G. Narayanan Unny to the Managing Director, S. M. S.
,,	W19	Letter dated 21-12-55 to M. P. Raman Pillai from the Managing Director.

Kerala Gazette No. 37 dated 10th September 1957.

PART III

THE HIGH COURT OF KERALA.

Rules to regulate the procedure in Appeals from orders of Election Tribunals.

By virtue of the powers conferred by Article 225 of the Constitution of India and by Section 122 of the Code of Civil Procedure and all other powers thereunto enabling, the following rules framed by the High Court of Kerala will come into force from the date of publication in the Government Gazette.

Rule 1.—The following rules shall regulate the procedure to be adopted in regard to appeals under Section 116-A of the Representation of the People Act, 1951.

Rule 2.—The memorandum of appeal shall be accompanied by:—

(1) (a) a certified copy of the order appealed against,

(b) the particulars of service of notice to the respondent set out in Form No. I of the Appendix,

(c) the requisite postage charge to enable service on the respondent to be effected by registered post acknowledgment due, and

(d) as many typed or printed copies of the paper book as there are respondents together with five extra copies for the use of the Court.

(2) The paper book required under Sub-rule (1) (d) shall consist of a fly leaf and index and copies of the following:—

(a) the election petition,

(b) the written statement,

(c) further pleadings, if any,

(d) the statement of parties or their pleaders recorded under rules 1 and 2 of Order X of the Code of Civil Procedure,

(e) the order under appeal,

(f) the memorandum of appeal, and

(g) such evidence, oral or documentary and other papers as the appellant may wish to refer to.

Rule 3.—The appeal shall be numbered as an Election Appeal and the Registrar or other officer appointed in this behalf shall fix a day for the hearing of the appeal and shall call for the records of the case. The notice of the hearing of the appeal shall be in Form No. II of the Appendix.

Rule 4.—The notice of the appeal to the respondent may be sent by registered post acknowledgment due and the day for the first hearing of the appeal shall ordinarily be so fixed as to have at least twenty clear days between the date of the issue of the notice and the date fixed for the hearing.

Rule 5.—When the postal acknowledgment is received duly signed or when the envelop has been returned with the endorsement that it has been refused the respondent shall be deemed to have been served.

Rule 6.—If the Court is satisfied that the respondent is evading service it may order that the notice be published in a Vernacular daily news paper and one English daily newspaper having circulation in the locality where the respondent ordinarily resides. Such publication shall be deemed to be sufficient service.

Rule 7.—If the respondent intends to appear and defend the appeal he shall on or before the date fixed in the notice of appeal file in court a memorandum of appearance in Form No. III of the Appendix and the respondent shall then be entitled to get a copy of the paper book filed by the appellant.

Rule 8.—The respondent shall within three days of the filing of the memorandum of appearance intimate the Registrar in writing if he wants to file a supplementary paper book containing such other papers which he may wish to refer to and within seven days of the intimation referred to above shall file in Court six typed or printed copies of the supplementary paper book.

Rule 9.—The correctness of the paper book shall be certified by the Advocate of the party filing it or if the party does not appear through Advocate it shall be certified by the party.

Rule 10.—The cost of preparing the paper book shall be determined by the Registrar and shall be included in the cost of the appeal.

Rule 11.—In the matter of awarding costs in an election appeal the Advocate's fee may be fixed subject to a minimum of Rupees one hundred and fifty and a maximum of Rupees five hundred.

Rule 12.— (1) Subject to these rules, the rules contained in Order XLI of the Code of Civil Procedure shall, *mutatis mutandis* apply.

(2) Any memorandum of appeal which does not conform to these rules or Section 119-A of the Representation of the People Act, 1951 shall be liable to rejection.

APPENDIX

Form No. I

[*See* Rule No. 2 (1)]

Form of Memorandum of giving particulars for service on the respondent.

ELECTION APPEAL No. OF 195 .

Particulars for service on respondent.

Name	Surname or father's name	Occupation	Address for service

Form No. II

(*See* Rule No. 3)

Notice to respondent of the day fixed for the hearing of the appeal.

(Cause title)

Appeal from..............of the Election Tribunal........ dated the day of..............195 .

To

........,..................RESPONDENT.

Take notice that an appeal from the order of................ in this case has been presented by...............and registered in this court and that the............day of............195 ; has been fixed by this court for the hearing of this appeal.

If no appearance is made on your behalf by yourself, your pleader or by someone by law authorised to act for you in this appeal it will be heard and decided in your absence.

Given under my hand and seal of the court this............ day of..........195 .

Deputy Registrar.

(Interlocutory application No......of........has been made by appellant and execution has been stayed (or other order made) by order dated............day of............195 .)

Form No. III

(*See* Rule No. 7)

Memorandum of Appearance.

(Cause title)

Take notice that the................respondent intends to appear and defend the above appeal and that his address for service of all notices and process is (insert address).......... ....The said respondent requires a copy of the paper book which the appellant has filed.

Dated this..............day of........195 .

Advocate for Respondent.

To

The Registrar,
High Court of Judicature,
Kerala State.

By order,
M. BALAKRISHNA MENON,
Registrar.

High Court of Kerala,
Ernakulam, 2-9-1957.